

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

In re: The Roman Catholic Diocese of Syracuse, New York, Debtor.	Case No. 23-30663 Chapter 11 Judge Wendy A. Kinsella
The Roman Catholic Diocese of Syracuse, New York, et al., Plaintiffs, v. Arrowpoint Capital, et al., Defendants.	Adv. Pro. No. 21-50002-5

**THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION TO
INTERVENE IN ADVERSARY PROCEEDING NO. 21-50002-5**

The Official Committee of Unsecured Creditors (the “Committee”) appointed in The Roman Catholic Diocese of Syracuse, New York’s (the “Debtor”) bankruptcy case hereby moves this Court (the “Motion”) for entry of an order, substantially in the form of the proposed order attached hereto as **Exhibit A**, permitting the Committee to intervene in the above-captioned adversary proceeding (the “Adversary Proceeding”), pursuant to 11 U.S.C. § 1109(b), Fed. R. Bankr. P. 7024, and Fed. R. Civ. P. 24(a)(1). In support of the Motion, the Committee respectfully states as follows:

BACKGROUND

1. The Debtor filed a voluntary petition with this Court under chapter 11 of the Bankruptcy Code on June 19, 2020 (the “Petition Date”). The Debtor is operating as a debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108.

2. The Debtor and numerous Plaintiff parishes (the “Parishes”) initiated the Adversary Proceeding on January 15, 2021, by filing the *Complaint* [Adv. Dkt. No. 1] (the “Complaint”) seeking damages for breach of contract and declaratory relief with respect to the obligations, rights, duties and liabilities of the parties under the terms of certain insurance policies issued by various insurance companies for the benefit of the Debtor and the Parishes.

JURISDICTION AND VENUE

3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

4. Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

REQUESTED RELIEF

5. By the Motion, the Committee respectfully requests the Court enter an order in the form attached hereto as **Exhibit A** allowing the Committee to intervene in the Adversary Proceeding.

6. The statutory predicates for the relief requested herein are 11 U.S.C. § 1109(b), Fed. R. Bankr. P. 7024, and Fed. R. Civ. P. 24(a)(1).

7. No prior request for the relief sought in this Motion has been made to this or any other court.

ARGUMENT

8. The Committee may intervene in the Adversary Proceeding as a matter of right.

9. A party may intervene in an adversary proceeding, when, among other things, it has an unconditional right to intervene granted by a federal statute. *See* Fed. R. Civ. P. 24(a)(1) (“[a] court must permit anyone to intervene who: (1) given an unconditional right to intervene by a federal statute”)

10. The Bankruptcy Code provides a creditors' committee with an unconditional right to intervene and be heard on any issue under chapter 11 of the Bankruptcy Code. 11 U.S.C. § 1109(b) ("A party in interest, including . . . a creditors' committee . . . may raise and may appear and be heard on any issue in a case under this chapter."); see *In re Caldor Corp.*, 303 F.3d 161, 176 (2d Cir. 2002) (noting that the intersection of Fed. R. Civ. P. 24(a)(1) and 11 U.S.C. 1109(b) provides creditors' committees an unconditional right to intervene in adversary proceedings); *In re Smart World Techs., LLC*, 423 F.3d 166, 181 (2d Cir. 2005); *In re Adelpia Commc'ns Corp.*, 285 B.R. 848, 853–54 (Bankr. S.D.N.Y. 2002).

11. This Court, and others, have recognized this unconditional right in instances where a creditors committee appointed in a diocesan bankruptcy case has filed a motion to intervene in adversary proceedings involving the diocesan debtor's insurance coverage. See, e.g., *Order Granting the Official Committee of Unsecured Creditors' Motion to Intervene in Adversary Proceeding No. 22-AP-02075, Diocese of Rochester v. AB 100 DOE (In re Diocese of Rochester)* (Bankr. W.D.N.Y. Adv. No. 22-AP-02075, Dkt. No 38, Apr. 27, 2022); *Order Granting the Official Committee of Unsecured Creditors' Motion to Intervene in Adversary Proceeding No. 19-AP-02021, The Diocese of Rochester v. The Continental Insurance Company, et al. (In re Diocese of Rochester)* (Bankr. W.D.N.Y. Adv. No. 19-AP-02021, Dkt. No. 170, Aug. 19, 2021); *Order Granting Motion of the Official Committee of Unsecured Creditors to Intervene in Adversary Proceeding No. 20-01227, The Roman Catholic Diocese of Rockville Centre, New York v. Arrowood Indemnity Company et al. (In re The Roman Catholic Diocese of Rockville Centre, New York)* (Bankr. S.D.N.Y. Adv. No. 20-01227-scc, Dkt. No. 255, Dec. 10, 2020); and *Consent Order Granting the Official Committee of Tort Claimants' Motion to Intervene in Adversary Proceeding No. 23-90012, The Roman Catholic Diocese of Albany New York, et al. v. Certain Underwriters at*

Lloyds, London et al. (In re The Roman Catholic Diocese of Albany, New York) (Bankr. N.D.N.Y. Adv. No. 23-90012, Dkt. No. 51, December 12, 2023).

12. For these reasons, the Committee should be permitted to intervene in this Adversary Proceeding.

CONCLUSION

WHEREFORE, the Committee respectfully requests the Court enter an order in the form attached hereto as **Exhibit A** allowing the Committee to intervene in the Adversary Proceeding.

Respectfully submitted,

Date: February 15, 2024

/s/ Robert T. Kugler

Robert T. Kugler (MN # 194116)

Edwin H. Caldie (MN # 388930)

Stinson LLP

50 South Sixth Street, Suite 2600

Minneapolis, MN 55402

Main: 612-335-1500

Facsimile: 612-335-1657

Email: robert.kugler@stinson.com

ed.caldie@stinson.com

Counsel to The Official Committee of Unsecured Creditors

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

In re: The Roman Catholic Diocese of Syracuse, New York, Debtor.	Case No. 23-30663 Chapter 11 Judge Wendy A. Kinsella
The Roman Catholic Diocese of Syracuse, New York, et al., Plaintiffs, v. Arrowpoint Capital, et al., Defendants.	Adv. Pro. No. 21-50002-5

**ORDER GRANTING THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS' MOTION TO INTERVENE IN ADVERSARY PROCEEDING NO. 21-
50002-5**

Upon consideration of the motion (the "Motion") filed by the Official Committee of Unsecured Creditors (the "Committee") to intervene in the above-captioned adversary proceeding (the "Adversary Proceeding"), and after due deliberation and good and sufficient cause appearing therefor:

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334. Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The legal and factual bases set forth in the Motion establish just cause for the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED**.
2. The Committee is authorized, pursuant to 11 U.S.C. § 1109(b) and Fed. R. Civ. P. 24(a)(1), to intervene unconditionally in the Adversary Proceeding, subject to the following limitations:
 - a. The Committee shall neither file nor be required to respond to any complaint or counterclaims.
 - b. The Committee shall neither propound nor be required to respond to discovery¹, but shall be served with all documents filed in this Adversary Proceeding and shall have the right to participate in all conferences and to respond to all filings, subject to any further direction the Court may hereafter provide, upon the request of any party in interest, on notice to all parties in this Adversary Proceeding requesting clarification of this Order.

###

¹ This Order in no way limits the discovery rights of any party in interest as part of Case No. 23-30663, including the rights to pursue discovery and the rights to object to any discovery propounded.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

In re: The Roman Catholic Diocese of Syracuse, New York, Debtor.	Case No. 23-30663 Chapter 11 Judge Wendy A. Kinsella
The Roman Catholic Diocese of Syracuse, New York, et al., Plaintiffs, v. Arrowpoint Capital, et al., Defendants.	Adv. Pro. No. 21-50002-5

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2024, I electronically filed the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system which sent notification of such filing to all registered parties. I also caused the foregoing document to be served via FedEx on the following:

U.S. Bankruptcy Court
Northern District of New York
James M. Hanley U.S. Courthouse and Federal Building
100 South Clinton Street
Syracuse, NY 13261
Attn: Clerk's Office

Office of The United States Trustee
10 Broad Street Room
105 Utica, NY 13501

Date: February 15, 2024

/s/ Logan R. Kugler
Logan R. Kugler